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C O N F I D E N T I A L ISLAMABAD 000380

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SUBJECT: SHARIA LAW: TRYING IT AGAIN IN NWFP'S MALAKAND,
SWAT

Classified By: DCM: PETER W. BODDE REASONS 1.4 b, d

11. (SBU) Summary: The Northwest Frontier Province (NWFP) has sent legislation to the federal government proposing Sharia Muslim law be instituted in Malakand agency, Swat, and some other areas north of Peshawar. This is tied to ongoing efforts to mollify Malakand and Swat leaders, but by so doing it may raise the specter of causing religious leaders elsewhere to ask for special Sharia rule in their areas. Human rights groups and liberal journalists have already raised alarm bells. End summary.

12. (SBU) In an effort to quiet on-going turmoil in the Malakand and Swat areas of the Northwest Frontier Province, the provincial government is once again proposing to institute traditional Muslim Sharia law there and in its adjoining Dir and Chitral districts. The Provincial government has sent to Islamabad for approval draft legislation ("Sharia Nizam-e-Adl Regulation, 2008") to placate Malakand Firebrand Maulana Sufi Mohammed and his equally troublesome Swati son-in-law Fazlullah. Over the past decade, in Malakand, the Maulana has blocked government access to the district by occupying the Malakand hills and blockading mountain passes to the north. In Swat, Fazlullah's militants have had check points on the roads which the government could not control, terrorized the population with his militant Taliban-like government, and kept government rule from the area for several years. This new legislation is a result of JUI-F led negotiations with Fazlulllah. In March, Fazlulallah agreed to reinstate the Sharia law of 1999 for the area and allow the army to the establish troops in a cantonment in the Swat area for the first time.

13. (SBU) The draft regulation will make all laws in Malakand, Dir, Chitral, and Swat (historically all part of the old Malakand Division, now abolished) subject to the principles of Sharia, or traditional Muslim law, with a Qazi (a Muslim judge) adjudicating all cases. The Qazi will attempt to dispose of a civil case in six months and a criminal case in three. He will be appointed from among those who hold a Sharia degree or equivalent course of Koranic study of three months. As the January 23 "Dawn" reports, "Islamic law cannot be mastered in three months." However, under the cumbersome current legal system, it can take years for a case to reach a decision. In comparison, the Islamic system, however imperfect, may be more appealing to this conservative, rural population. There is a means to appeal the Qazi's decision to the Federal Shariat Court, but not to the civilian High Court of Peshawar, which currently acts to

backstop slow provincial courts.

¶4. (SBU) The January 24 "Daily Times" reports that the proposal to resume implementation of Sharia law is tied to the release from prison of Maulana Sufi Mohammed. The same paper editorializes, however, that Prime Minister Nawaz Sharif tried the same experiment with Sharia courts in Malakand in 1999 (also to placate Maulana Sufi Mohammed), and the result was the region became a haven for smugglers.

¶5. (C) Comment: Past efforts to bring Sharia to this area have a mixed history. Bringing Sharia law there implies that Pakistan's Constitution doesn't apply nationwide. Undoubtedly, setting up Sharia law in these areas may tamp down some very serious law and order problems and may in fact be popular with much of the local populace. But this is not being brought about by the "will of the people", but to quiet troublesome radical mullahs whom the government have not been able to control by other means. It also sets an unfortunate precedent. As the January 23 "Dawn" asks "How will the government resist the demands of other militants" to extend these provisions elsewhere in the country? End comment.

¶6. (U) This cable was coordinated with Consulate Peshawar.
PATTERSON